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DEC 11 2009

OFFICE OF PETITIONS

In re Application of :
Hans Hundegger :
Application No. 10/728,773 : DECISION ON RENEWED PETITION
Filed: December 8, 2003 : PURSUANT TO
Attorney Docket No.: P69351US0 : 37 C.F.R. § 1.181(A)
Title: METHOD AND MACHINING :
INSTALLATION FOR THE MACHINING :
OF WOOD WORKPIECES :

This is a decision on the renewed petition filed May 26, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 22, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue¹ or publication fees.² Accordingly, the above-identified application became abandoned on December 23, 2008. A Notice of Abandonment was mailed on January 15, 2009.

¹ See MPEP § 710.02(e)(III).

² See 37 C.F.R. § 1.211(e).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 10, 2009, where Petitioner stated that the notice of September 22, 2008 was not received at the correspondence address of record,³ and included a copy of the individual docket record for this application as well as the master docket. Petitioner further indicated that he "searched in all of the applicable places at his law office"⁴ and has suggested that he reviewed the file jacket.⁵ Petitioner further indicated that he "uses Computer Packages Inc (CPI) docketing system," and that when a communication is received from the Office, members of his "docketing department" docket the communication "with the mail date, due date, and call ups."⁶

The original petition was dismissed via the mailing of a decision on March 30, 2009.

With this renewed petition, Petitioner has provided a description of the system used for recording an Office action received at the correspondence address of record with the USPTO that is sufficient to both describe the operation of the docketing system and establish the reliability of the same. The electronic record shows that the computer-based docketing system generates weekly reports that are distributed to the responsible attorney,⁷ that the aforementioned call ups serve as periodic reminders to both the responsible attorney and his secretary,⁸ and that the master docket is reviewed on a daily basis.⁹

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the Notice of Allowance and Issue Fee Due of September 22, 2008 was not received.

Accordingly, this second renewed petition pursuant to 37 C.F.R. § 1.181(a) is GRANTED. The holding of abandonment is **WITHDRAWN**.

3 Original petition, pages 1-2, paragraph 2.

4 Original Petition, page 1, paragraph 2.

5 *Id.* at page 2, paragraph 5. On the first page of this renewed petition, Petitioner has clarified that both the file jacket and the application contents were reviewed.

6 Original petition, page 2, paragraph 3.

7 Renewed petition, pages 1-2.

8 *Id.* at 3.

9 *Id.* at 3-4.

It is noted that the issue and publication fees, along with form PTOL-85b were submitted concurrently with the original petition on March 10, 2009.

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred to the Office of Patent Publication, so that this application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.¹⁰ All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

¹⁰ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.